

David Stebbins (pro se Plaintiff)
123 W. Ridge Ave.,
APT D
Harrison, AR 72601
(870) 212-4947
acerthorn@yahoo.com

UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

DAVID STEBBINS,

PLAINTIFF

VS.

Case 3:21-cv-04184-JSW

KARL POLANO, et al

DEFENDANTS

ORDER STRIKING [138] MOTION TO INTERVENE

On April 11, 2022, corporate defendants Youtube LLC, Alphabet Inc., Discord Inc., Amazon.com Inc., and Twitch Interactive Inc. were all voluntarily dismissed by the Plaintiff pursuant to Fed.R.Civ.P. 41(a)(1)(A)(i). See **Dkt. 128**. Minutes later, they attempted to file a Motion to Dismiss (**Dkt. 129**). However, because the dismissal is effective upon filing without even so much as a perfunctory order of court, and because the effect of the dismissal is at once immediate, absolute, and not reviewable by the Court, the Court struck the motion to dismiss as being improperly filed. See **Dkt. 134**.

On April 20, 2022, former defendants Alphabet Inc. and Youtube LLC filed a motion to intervene, seeking to rejoin the case as intervenor defendants. See **Dkt. 138**.

To grant them leave to intervene would be tantamount to allowing these previously-dismissed defendants a means of fanning the ashes of the action back into life, or to allowing the defendants to circumscribe, by adversary or by court, the voluntary dismissal. Neither are allowed under Rule 41(a). “There is nothing the defendant can do to fan the ashes of that action into life and the court has no role to play. This is a matter of right running to the plaintiff and may not be extinguished or circumscribed by adversary or court.” See *Commercial Space Management Co. v. Boeing Co.*, 193 F. 3d 1074, 1077 (9th Cir. 1999).

Neither the Court nor the defendants have to like what the plaintiff has done. But for better or worse, the plaintiff has the absolute right to voluntarily dismiss the corporate

defendants, and the fact that the defendants were voluntarily dismissed from this action puts the full stopper on the defendants' ability to take any further action in this case.

For these reasons, the Court STRIKES the Motion to Intervene. The defendants are further WARNED that any further attempts to circumvent the voluntarily dismissal by any means, however indirect, will not only be struck sua sponte, but may risk sanctions by the Court.

Signature of Judge

Date